

are but the first notes of a great volume of unexpressed criticism that may be expected now and in the future, on the Guiteau trial.

[W. J. M.]

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THERE is little doubt that the humiliating spectacle witnessed in the Guiteau trial, of summoning expert testimony on opposite sides of a case, will render the position of the paid and partisan expert more ridiculous than it has ever before appeared in this country. It does not now seem possible, sorrowful as is the admission, to more effectually cheapen the value of medical opinion in a legal case. With the exception of a modicum of valuable expert opinion, the public has been treated to a solemn mixture of metaphysics, theology, phrenology, physiognomy, "expert conferences," and "concerted action," all under the name of medical science.

It would almost seem as if the time must soon come, if indeed it has not now arrived, when the better members of the profession will feel ashamed to appear in court as the merest tool of the lawyers who conduct the case, "hired by the dozen" (as a lawyer asserted) and placed by reason of the expert fee system on a level with any ignoramus who holds a medical degree. Can it be wondered at that the public is confused by the natural conflict of opinion, and, finally, shrugging its shoulders, remarks that "doctors disagree"? It is to be hoped, for the credit of what there is true and good in medical science, that under similar circumstances "doctors" will disagree.

As now given, an expert's opinion is, as a rule, a mere farce. An instance of this is the long journey to Washington of a number of experts who absolutely uttered no word in the trial beyond yes or no to a hypothetical question, and then returned home. If we join to this a fact equally well known and true, that the lawyer who puts this hypothetical question knows by a previous understanding with the expert what the answer will be, we pile farce on farce, and reach positive discredit to law, medicine, and justice combined. By this system we have mainly a series of hired answers arrayed on either side of a case. The impartial expert

becomes a partisan in spite of himself. The suggestion of interest cannot be removed where payment, however just and well-earned, comes alone from one side or the other.

But we look for good out of evil in this instance; we trust that the ridiculousness and the injustice of the expert's position in such a trial may be so patent that means may be taken to prevent this ever-recurring and ever-disgraceful array of expert against expert in a question of insanity or malpractice. It is time for the medical profession to take the matter in hand and see that the law regarding the relation of medical experts to the courts is changed. This change, doubtless, will be made by the several States, one by one, and thus gradually spread and become the law of the land. Its essential feature must be the reference of the question of insanity or malpractice (where the same absurdities come to light) to a commission or jury of experts, either medical alone or legal and medical combined, who shall pass a preliminary opinion upon the prisoner's insanity, which shall serve as a basis of argument and judgment in the trial.

These juries or commissions should be appointed by the Legislature, and should be liable to be called upon by the courts in given cases, where the services of the present partisan expert is now called for. We have already similar boards or commissions to whom special subjects are referred. A step in the right direction has been taken by the State of Massachusetts, which, in place of the old political coroner, has established a system of medical examiners, men of integrity and position, and skilled in their profession. The evidence of these men, paid by the State and evidently unbiased in their opinions, presented to the jury, has done much in that State to elevate the standard of expert testimony.

Should this plan of expert juries or commissions paid by the State be adopted, the opprobrium that falls upon the entire medical profession by reason of the conflicting opinions of experts, whether partisan or otherwise, would be averted, and the ends of justice measurably furthered. Will the Neurological or Medico-Legal Society not take the lead in this matter? [W. J. M.]